IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPEAL NO. 210 OF 2000

Shankar Ragho Bhagana ....Appellant.
(Orig.Accd.)

Versus

The State of Maharashtra ....Respondent.

Smt.D.M.Shah (appointed), Adv. for the appellant.

Mrs.P.H. Kantharia, APP for the State.

CORAM: V.G. PALSHIKAR
AND
ANOOP V. MOHTA, JJ.

22.9.2004.

ORAL JUDGMENT: (Per Palshikar, J.)

Being aggrieved by the judgment and order of conviction and sentence passed by the Sessions Judge, Ratnagiri on 14.1.2000 in Sessions Case Nos.60/99 against the present appellant-original accused the appellant has preferred this appeal on the grounds mentioned in the memo of appeal as also verbally canvassed before us.

2. With the assistance of learned advocate appearing on behalf of the appellant and the learned Public Prosecutor we have .scrutinized and reappreciated the entire evidence on record.

3. On reappreciation of the evidence the prosecution case as emerges is that on 21.1.1999 in the morning the complainant-P.W. 1 -Pandurang Bhagane was informed by Parvatibai d/o Girji Ragho Bhagane that the accused has killed her mother i.e. wife of the accused. He therefore went to the police, lodged the complaint on the basis of which investigation was taken up and the accused was duly arrested. Thereafter he was charge sheeted. Prosecution has examined six witnesses to prove its case accepting which the learned trial Judge has convicted the accused as aforesaid.

4. In our opinion, no error either of law or of fact is committed by the learned trial Judge in recording the judgment of conviction as mentioned above. He has properly appreciated the evidence on record and his findings are consistent with the evidence on appreciation of which he has made order of conviction. We have already reappreciated the evidence and we concur with the findings given by the learned trial Judge.

5. P.W. 1 – Pandurang Bhagane has stated that he knows the victim Girji. She was mother of the accused and there used to be frequent quarrels between the accused and his family members as the accused was addicted to heavy consumption of alcohol. He has proved the First Information Report lodged by him. P.W. 2 – Parvati Kanim is the daughter of the victim and therefore sister of the accused. She has deposed that few days prior to the date of incident her parents were residing with the accused and his wife. When on the day prior to the date of incident she had gone to the house of mother to give her bath water mother told her of the assault effected by Shankar on that day and she says that she was in pains and was not able to take bath. She then deposes of accused coming

to her house in the night and threatened her and told the witness that in the next morning she should come and see what he has done. When she went to his house in the morning she called her mother and not getting any response entered the house to find her mother dead. Her deposition therefore corroborates the testimony of P.W.1 who lodged the complaint. This witness has also spoken of earlier occasions when the accused hit her mother or his wife.

6. P.W. 3 is Darshana Bhagane. She also speaks of previous conduct. The testimony of P.Ws 2 and 3 therefore corroborates each other on all material particulars. P.W. 4 is Vinod Ghag who has proved the spot panchnama as inquest panchnama. The injuries as disclosed by inquest panchnama as also by post mortem report given by P.W. 5 – Dr.D.L.Khabade tally and though there is no eye witness the medical evidence is enough to prove that the victim met homicidal death. P.W. 6 Sanjay Kurundkar is the investigating officer. From appreciation of above evidence it is obvious that the accused was a drunkard and used to beat his relations in that state. It is proved on record that he had beaten his mother on earlier occasions as also on the date of incident and he had forewarned his sister regarding his actions next few hours. All the circumstances proved by the prosecution on record therefore indicate beyond doubt that the accused is the person who killed his mother. We therefore agree with the findings recorded by the learned trial Judge to this effect. The result therefore is that the appeal must fail and is therefore dismissed. The amount quantified as fees payable to each to the learned Prosecutor and the learned Advocate appointed Mrs.Latika Khemani is Rs.1000/- for this appeal.